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S/AC.25/1990/1
17 October 1990

ORIGINAL: ENGLISH

SECURITY COUNCIL COMMITTEE ESTABLISHED
BY RESOLUTION 661 (1990) CONCERNING
THE SITUATION BETWEEN IRAQ AND KUWAIT

Note verbale dated 12 October 1990 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Secretary-General

The Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations presents his compliments to the Secretary-General of the United Nations and has the honour to attach a memorandum by the Government of the United Kingdom in response to the questionnaire circulated by the Secretary-General in his note SCPC/7/90 (3) of 8 October 1990. The Secretary-General is requested to circulate the memorandum as a document of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait.

Also attached are copies of the legislation and other documents referred to in the memorandum.*

* Copies of the legislation and other documents may be consulted in room S-3520.

best copy available

Annex

Memorandum

THE IMPLEMENTATION OF RESOLUTION 661 (1990): A QUESTIONNAIRE CONCERNING NATIONAL MEASURES

UNITED KINGDOM RESPONSES

Question 1.

(a) New legislation has been created by the passage of Statutory Instruments through Orders in Council to implement the provisions of Security Council resolution 661 (1990).

(b) Legislation enacted since the adoption of resolution 661 (1990) is as follows:

- The Hong Kong (Control of Gold, Securities, Payments and Credits: Kuwait and Republic of Iraq) Order 1990 (6 August).

- The Caribbean Territories (Control of Gold, Securities, Payments and Credits: Kuwait and Republic of Iraq) Order 1990: SI No. 1625 (6 August).

- The Iraq and Kuwait (United Nations Sanctions) Order 1990: SI No. 1651 (8 August).

- The Iraq and Kuwait (United Nations Sanctions) (Dependent Territories) Order 1990: SI No. 1652 (8 August).

- The Export of Goods (Control) (Iraq and Kuwait Sanctions) Order 1990: SI No. 1640 (8 August).

- The Iraq and Kuwait (United Nations Sanctions) (Amendment) Order 1990: SI No. 1768 (29 August).

- The Iraq and Kuwait (United Nations Sanctions) (Bermuda) Order 1990: SI No. 1769 (29 August).

- The Iraq and Kuwait (United Nations Sanctions) (Dependent Territories) (Amendment) Order 1990: SI No. 1770 (29 August).

- The Iraq and Kuwait (United Nations Sanctions) (Channel Islands) Order 1990: SI No. 1771 (29 August).

- The Iraq and Kuwait (United Nations Sanctions) (No. 2) Order 1990 (5 October).

- The Iraq and Kuwait (United Nations Sanctions) (Dependent Territories) (No. 2) Order 1990 (5 October).

(c) Separate legal directions were issued by HM Treasury on 2 and 4 August to freeze certain Iraqi and Kuwaiti assets:

- The Control of Gold, Securities, Payments and Credits (Kuwait) Directions 1990: SI No. 1591 (2 August).

- The Control of Gold, Securities, Payments and Credits (Republic of Iraq) Directions 1990: SI No. 1616 (4 August).

The Bank of England issued notices on 7 August:

Emergency Laws (Re-enactments and Appeals) Act 1964: Kuwait.

Emergency Laws (Re-enactments and Appeals) Act 1964: Iraq.

The Department of Trade and Industry has issued a number of licences under the Iraq and Kuwait (United Nations Sanctions) Order 1990 which authorize activities which would otherwise be prohibited as they involve trade with Iraq/Kuwait. These licences (which include general licences covering personal effects and mail) have been used as a means of protecting the interests of the legitimate Government of Kuwait. This was the purpose of an Open General Supply Licence which came into force on 10 September 1990 which authorizes the supply of goods to certain Kuwaiti corporations which have been clearly identified with the legitimate Government of Kuwait. A small number of import licences have also been issued for goods in transit before 7 August.

Question 2.

(a) The Department of Trade and Industry and HM Customs and Excise are responsible for controlling imports. The latter is responsible for enforcing controls on the import into the United Kingdom of goods originating in Iraq or Kuwait.

(b) Under an amendment to the Open General Import Licence of 4 December 1987 and the Iraq and Kuwait (United Nations Sanctions) Order 1990 the import of products originating in Iraq or Kuwait and activities which would promote or are calculated to promote imports or trans-shipment of goods from Iraq or Kuwait are prohibited except under the authority of a specific licence. The granting of licences falls to the Secretary of State for Trade and Industry. A small number of individual licences have been issued for the import of goods that were in transit before 7 August.

HM Customs and Excise are responsible for ensuring that imports subject to control are not admitted without licences, and have adapted their entry processing system to identify suspect importations. Types of goods at risk and known importers have been identified. All ports and airports have been informed of the new legislation and the risks involved. Information will be collected and researched at a central intelligence point for dissemination to operational staff.

Question 3.

(a) Export controls are implemented by the Department of Trade and Industry through a licensing system operated under the Iraq and Kuwait (United Nations Sanctions) Order 1990 and the Export of Goods (Control) (Iraq and Kuwait Sanctions) Order 1990. The implementation of controls is carried out in close consultation with other interested government departments, notably the Foreign and Commonwealth Office and HM Customs and Excise. HM Customs and Excise are responsible for enforcing controls on the export of goods from the United Kingdom to Iraq or Kuwait or to an Iraqi or Kuwaiti business.

(b) Ministers have ensured that there will be effective co-ordination of information and action concerning potential and actual breaches of Security Council resolution 661 (1990) by the rapid establishment of the Embargo Enforcement Unit. Both the Department of Trade and Industry and Customs and Excise have undertaken large-scale operations to ensure exporters are aware of the consequences of breaching the embargo.

In addition, Customs and Excise staff at ports and airports in the United Kingdom are keeping a constant look-out for potential offenders. HM Customs and Excise have instructed senior managers responsible for ports and airports to reorder their work to give a high priority to export controls. Staff at all levels have been made aware of the risks associated with attempts to breach sanctions. Steps have been taken to ensure that local management plans and operational unit risk profiles reflect the dangers not only of direct traffic to Iraq but also the risk of diversion via other countries. In addition, Customs have established a central intelligence reference point to receive, process and disseminate information throughout the Department; they are arranging for staff to visit known exporters to Iraq and Kuwait to ensure they are aware of the sanctions provisions; they are monitoring statistical data to identify any variation in patterns of exports (and imports); and are generally ensuring a high level of awareness on the subject within the Department.

Question 4.

(a) Although transfers may be made into the United Kingdom accounts of persons resident in Iraq or Kuwait, all such accounts are blocked, and the authorities exercise control on payments out of them.

(b) The powers given by the Treasury Directions effectively prevent unauthorized movements of funds. HM Customs and Excise will carry through investigation of potential import/export offences to cover financial aspects where appropriate.

Question 5.

Customs and Excise have the powers to detain any item of equipment or person they consider to be in breach of Security Council resolution 661 (1990). Successful prosecution of offenders may lead to a maximum prison sentence of seven years and/or unlimited fines, as detailed below.

Customs penalties for importing or exporting goods contrary to a prohibition or restriction are contained in the Customs and Excise Management Act 1979 (CEMA).

They are:

(a) IMPORTS: (i) On conviction for minor offences based on untrue declaration (CEMA Section 167 (1)), there is a penalty of £1,000.

(ii) On conviction for more serious untrue declaration offences, done knowingly or recklessly (CEMA Section 167 (1)) there is a penalty of an unlimited fine or imprisonment of up to two years, or both.

(iii) On conviction for serious cases, where intent to evade is involved (CEMA Section 170), there is a penalty of an unlimited fine or imprisonment of up to seven years, or both.

(iv) Whether the offence is under CEMA Section 167 or CEMA Section 170 the goods are liable to forfeiture.

(b) EXPORTS: (i) On conviction for minor offence (CEMA Section 68 (1)) there is a penalty of £400 or three times the value of the goods, whichever is the greater.

(ii) On conviction for serious offences, where intent is involved (CEMA Section 68 (2)), there is a penalty of an unlimited fine or imprisonment of up to seven years, or both.

(iii) Whether the offence is under CEMA Section 68 (1) or 68 (2) the goods involved are liable to forfeiture.

The Act of Parliament under which financial sanctions are imposed makes no provisions for seizures or forfeitures, but there are penalties in the form of fines and/or imprisonment for contraventions.

Question 6.

(a) No significant problems have been experienced on the trade side, although one area of slight difficulty has been uncertainty over the extent to which Security Council resolution 661 (1990) applies to services. There have been no problems in implementing the financial sanctions.

(b) The legislation cited in reply to Question 1 applies equally in relation to contracts entered into before the date of Security Council resolution 661 (1990). [A small number of individual licences have, however, been issued by the Department of Trade and Industry for the import of goods in transit before 7 August.]

(c) The Department of Trade and Industry has granted licences to corporations which are clearly identified with the legitimate Government of Kuwait. An Open General Supply Licence was issued on 10 September 1990 which allows any person to supply goods to such corporations.

The need to protect the assets of the legitimate Government of Kuwait, its agencies and citizens, was an important consideration in determining whether or not to grant the general permissions set out in the Bank of England's notices. Special arrangements have also been put in place to ensure the continued smooth functioning of such agencies as the Kuwait Investment Office, and of Kuwaiti-owned entities such as the Kuwait Petroleum Corporation. The objective of all such measures is to ensure that neither assets or liquid funds leave the control of the United Kingdom except for legitimate purposes.

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S/AC.25/1990/2
24 October 1990
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Note verbale dated 23 October 1990 from the Permanent Mission of Belgium to the United Nations addressed to the Secretary-General

The Permanent Mission of Belgium to the United Nations presents its compliments to the Secretary-General of the United Nations and has the honour to transmit to him, in reply to the questionnaire circulated in his note SCPC/7/90 (3) of 8 October 1990, the list of measures taken by Belgium in application of Security Council resolution 661 (1990).

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Annex

Measures taken by Belgium in application of Security Council resolution 661 (1990)

1. Legislative framework

1 (a) The measures taken within the framework of the implementation of Security Council resolution 661 (1990) are based on the Decree-Law of 6 October 1944 on exchange control, the Act of 11 September 1962 on the import, export and transit of goods (as amended by the Acts of 19 July 1968 and 6 July 1978) and the Act of 2 December 1957, which approves the Treaty of Rome establishing the European Community (see 1 (c)).

1 (b) There has been no need to enact any specific legislation within the framework of the implementation of resolution 661 (1990).

1 (c) Belgium has adopted the following measures:

- The Royal Decree of 8 August 1990 and the Ministerial Decree of 22 September 1990 on financial relations with certain countries, published in the Moniteur belge on 9 August 1990 and 4 October 1990, respectively, and entering into force on the day of their publication;

- The Ministerial Decree of 8 August 1990 requiring a licence for the import, export and transit of goods, published in the Moniteur belge on 9 August 1990 and entering into force on the day of its publication. The Decree states in the preamble that its objective is to "enable the implementation of the regulations adopted by the Council of the European Communities".

The Council of the European Communities also adopted, on 8 August 1990, Regulation (EEC) No. 2340/90 preventing trade by the Community as regards Iraq and Kuwait, published in the Official Journal of the European Communities on 9 August 1990 and entering into force on the day of its publication. By virtue of the relevant provisions of the Treaty of Rome, the regulations of the Council are directly applicable in the member States of the Community as soon as they enter into force.

2. Control of imports or activities which would promote or are calculated to promote imports or trans-shipment of goods coming from Iraq or Kuwait

2 (a) The competent authorities are the Customs and Excise Administration within the Ministry of Finance and the Central Office for Quotas and Licences within the Ministry of Economic Affairs.

2 (b) The Ministerial Decree of 8 August 1990 requires that a licence be produced to import any products originating in, or coming from, Iraq or Kuwait and not in free circulation in the European Economic Community.

In addition, Belgium applies Regulation (EEC) No. 2340/90, which forbids the introduction into the territory of the Community of all products originating in, or coming from, Iraq or Kuwait.

3. Control of exports or activities which would promote or are calculated to promote the sale or supply of products and commodities to Iraq or Kuwait

3 (a) The competent authorities are the Customs and Excise Administration within the Ministry of Finance and the Central Office for Quotas and Licences within the Ministry of Economic Affairs.

3 (b) The Ministerial Decree of 8 August 1990 requires that a licence be produced to export to Iraq or Kuwait any products originating in, or coming from, the European Community. Furthermore, a licence must also be produced for the transit of any goods originating in, coming from, or destined for Iraq or Kuwait.

Furthermore, Belgium applies Regulation (EEC) No. 2340/90, which prohibits the export to Iraq or Kuwait of all products originating in, or coming from, the Community. The following are likewise prohibited in the territory of the Community or by means of aircraft and vessels flying the flag of a Member State, and when carried out by any Community national:

(i) All activities or commercial transactions, including all operations connected with transactions which have already been concluded or partially carried out, the object or effect of which is to promote the export of any product originating in, or coming from, Iraq or Kuwait;

(ii) The sale or supply of any product, wherever it originates or comes from:

- To any natural or legal person in Iraq or Kuwait,

- To any other natural or legal person for the purposes of any commercial activity carried on in or from the territory of Iraq or Kuwait,

(iii) Any activity the object or effect of which is to promote such sales or supplies.

4. Control of economic and financial resources

4 (a) The Decree-Law of 6 October 1944 on exchange control empowers the King to organize, through decrees discussed in the Council of Ministers, the control of all transfers of property and assets between Belgium and other countries.

4 (b) The Royal Decree of 8 August 1990, which entered into force on 9 August 1990, subjects to prior authorization by the Minister of Finance exchange operations, capital movements and financial transfers of all kinds between Belgium

and other countries carried out by or on behalf of natural or legal persons that are nationals of, or resident in, Iraq or Kuwait. All operations relating to investments in Belgium that are of Kuwaiti or Iraqi origin are likewise subject to prior authorization by the Minister of Finance.

5. Enforcement

The Decree-Law of 6 October 1944 on exchange control and the Act of 11 September 1962 on the import, export and transit of goods, as amended by the Acts of 19 July 1968 and 6 July 1978, contain penal provisions providing for a system of fines, confiscations and terms of imprisonment.

6. Other

6 (a) Belgium has not yet confronted any particular problems in implementing Security Council resolution 661 (1990).

6 (b) Regulation (EEC) No. 2340/90 adopted by the Council of the European Communities on 8 August 1990 preventing trade by the Community as regards Iraq and Kuwait as from 7 August 1990 prohibits "all activities or commercial transactions, including all operations connected with transactions which have already been concluded or partially carried out, the object or effect of which is to promote the export of any product originating in, or coming from, Iraq or Kuwait".

6 (c) The Royal Decree of 8 August 1990 on financial relations with certain countries states in the preamble that its purpose is to "protect the interests of the legitimate Government of Kuwait". Its sphere of application makes it possible to control all financial transactions relating to persons who are nationals of, or resident in, Kuwait. Special arrangements have been made with representatives of the legitimate Government of Kuwait with a view to regulating the practical aspects of this question.

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26 October 1990
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NOTE VERBALE DATED 24 OCTOBER 1990 FROM THE PERMANENT MISSION OF ARGENTINA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Mission of the Argentine Republic to the United Nations presents its compliments to the Secretary-General and, with respect to note SCPC/7/90(3), has the honour to transmit to him the following reply of the Government of Argentina to the questionnaire of the Security Council Committee established by resolution 661 (1990) on measures adopted by States in application of resolution 661 (1990):

"With a view to the effective implementation of Security Council resolution 661 (1990), the Government of Argentina issued Decree 1560/90, stipulating that the Executive and the government departments and public bodies of the State, the provinces and the municipalities should take, in their respective jurisdictions, the measures necessary for the implementation of the aforementioned resolution.

"This decree was amplified by Decree 2067/90 as a result of the adoption of Security Council resolution 670 (1990).

"The texts of the provisions adopted by the Government of Argentina which are mentioned in the foregoing paragraphs were transmitted to the Secretary-General in due time and have been circulated as documents S/21530 and S/21848 respectively."

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S/AC.25/1990/4
27 October 1990

ORIGINAL: ENGLISH

LETTER DATED 11 OCTOBER 1990 FROM THE PERMANENT REPRESENTATIVE OF NORWAY TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

I have the honour to enclose the text of the Crown Prince Regent's Decree of 5 October 1990, whereby the Norwegian Government laid down regulations concerning the implementation of Security Council resolution 670 (1990), of 25 September 1990.

I should be grateful if you would have the text of this letter and its annex brought to the attention of the Committee established under resolution 661 (1990), as requested in paragraph 10 of resolution 670 (1990).

(Signed) Martin HUSLID
Ambassador
Permanent Representative of Norway
to the United Nations

Annex

Regulations concerning the implementation of resolution 670 (1990) of 25 September 1990 of the United Nations Security Council, laid down by the Crown Prince Regent's Decree of 5 October 1990

Pursuant to Act No. 4 of 7 June 1968 relating to the implementation of mandatory decisions of the Security Council of the United Nations, the following regulations have been laid down for the implementation of resolution 670 (1990) of 25 September 1990.

§ 1

The purpose of these regulations is to ensure an effective implementation of Security Council resolution 661 (1990) relating to an economic boycott of Iraq and Kuwait and of the Norwegian regulations of 9 August 1990 relating to the implementation of the said resolution.

§ 2

1. It is prohibited for any aircraft to take off from Norwegian territory carrying cargo that is destined for or comes from Iraq or Kuwait.

2. The prohibition set out in subsection 1 does not apply to supplies intended strictly for medical purposes, supplies to the United Nations Iran-Iraq Military Observer Group (UNIIMOG), and food in humanitarian circumstances, provided that authorization has been given for the particular food consignment by the Sanctions Committee of the Security Council.

§ 3

1. It is prohibited for any aircraft to overfly Norwegian territory with the intention of landing in Iraq or Kuwait.

2. The prohibition set out in subsection 1 does not apply:

a) if the aircraft is to land at an airfield designated by the Norwegian authorities in order to permit its inspection to ensure that there is no cargo on board that would, if the transport were to be carried out, involve a violation of the provisions relating to an economic boycott of Iraq or Kuwait laid down in Security Council resolutions 661 (1990) and 670 (1990);

b) if the particular flight has been approved by the Sanctions Committee of the Security Council;

c) if the particular flight has been certified by the United Nations as solely for the purposes of the United Nations Iran-Iraq Military Observer Group (UNIIMOG).

3. Aircraft that have landed on Norwegian territory for inspection in accordance with subsection 2 (a) may be detained for this purpose for as long as is deemed necessary.

§ 4

1. It is prohibited for ships of Iraqi registry that are or have been used in violation of Security Council resolution 661 (1990) to call at Norwegian ports.

2. The prohibition set out in subsection 1 does not apply to calling at a port in circumstances recognized under international law as necessary to safeguard human life.

3. Ships of Iraqi registry as mentioned in subsection 1, which are in a Norwegian port or which in spite of the prohibition set out in subsection 1 call at a Norwegian port shall be detained.

§ 5

These regulations enter into force immediately.

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31 October 1990
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NOTE BY THE SECRETARY-GENERAL

The attached note verbale, dated 31 October 1990, was addressed to the Secretary-General by the Permanent Observer of Switzerland to the United Nations.

Annex

Note verbale dated 31 October 1990, from the Permanent Observer of Switzerland to the United Nations addressed to the Secretary-General

The Permanent Observer of Switzerland to the United Nations presents his compliments to the Secretary-General of the United Nations and has the honour to transmit to him, in response to his note of 8 October 1990, the replies of the Swiss Government to the questionnaire of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait.

With reference, in the same context, to his notes of 22 August and 4 October 1990, the Permanent Observer points out that the measures referring substantially to the Security Council resolutions were taken autonomously and are implemented autonomously by Switzerland.

Appendix

Reply to the questionnaire on measures taken at the national level in implementation of resolution 661 (1990)

1. Legislative framework (cf. annex)*

(a) (i) Order of the Federal Council instituting economic measures with respect to the Republic of Iraq and the State of Kuwait, dated 7 August 1990;

(ii) Order of the Federal Department of Public Economy instituting economic measures with respect to the Republic of Iraq and the State of Kuwait, dated 8 August 1990;

(iii) Order of the Federal Council on protection of the assets of the State of Kuwait in Switzerland, dated 10 August 1990;

(b) Switzerland took measures autonomously in adopting the Orders referred to under (a);

(c) See (a).

2. 3. 4. Control of imports, exports and economic and financial resources

(a) Federal Department of Public Economy - Federal Department of Finance.

(b) Mandatory declarations, requirement to apply for licences, directives to banks.

5. Enforcement

Fines under article 5 of the above Order of 7 August 1990, confiscation of illicit goods.

6. Other

(a) The Swiss Government considers that the control system is working effectively.

(b) All contractual obligations not fulfilled by 7 August will not be honoured.

(c) See the above Order of 10 August 1990.

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* The text of the three Orders may be consulted in room S-3520.

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31 October 1990
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NOTE VERBALE DATED 30 OCTOBER 1990 FROM THE PERMANENT MISSION OF SPAIN TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Mission of Spain to the United Nations presents its compliments to the Secretary-General of the United Nations and, in reply to the questionnaire which he transmitted in his note SCPC/7/90 (3), of 8 October 1990, has the honour to supplement the information provided in its notes No. 431 and No. 458, of 14 and 31 August, respectively, regarding the measures taken by Spain in accordance with Security Council resolution 661 (1990).

The Permanent Mission of Spain would be grateful if the text of this note and its annex could be distributed as a document of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait.

Annex

Measures taken by Spain in implementation of Security Council resolution 661 (1990)

1. Legislative provisions

The legislative provisions adopted in Spain in implementation of resolution 661 (1990) are based, where exchange control and foreign investments are concerned, on Royal Decree 2402/1980 enacting the regulations of the Exchange Control Act. Where investments, payments, loans, endorsements and guarantees are concerned, the legislative basis is provided by Decrees No. 1265/1986, No. 2077/1986, No. 2375/1986 and No. 1450/1987. These Royal Decrees are expounded in various Ministerial Orders and in resolutions and notices of the Directorate-General of External Transactions and of the Bank of Spain, which are amended or whose provisions are no longer in force, with resolution 661 (1990) in mind.

By Orders of the Ministry of Economic and Financial Affairs No. 18986, No. 19202 and No. 20302, of 4, 6 and 10 August 1990, respectively, prior authorization must be obtained for any transfers abroad of funds and payments, as well as for any disposition of assets, accounts and other financial holdings in Spain which may be sought by natural or legal persons resident in Iraq and Kuwait, by Spanish or foreign establishments or companies controlled by them and, in general, by any natural or legal persons acting on their behalf.

In addition, Regulation (EEC) No. 2340/90 of the Council of the European Communities of 8 August 1990, which is fully applicable in Spain, prohibits trade in general between Spain and Iraq or Kuwait. This Regulation is supplemented and expanded by a new regulation prohibiting the delivery of any non-financial services, the object or effect of which might be to benefit the economy of Iraq or Kuwait, all of which applies to any agency engaged in an economic activity (even when this is not within the territory of those countries) controlled by or constituted under the law of Iraq or Kuwait. Since some of the medical products authorized by Regulation (EEC) No. 2340/90 could be used for purposes which are not strictly medical, the new regulation prohibits their export and at the same time reaffirms that any export transaction must first have a licence and that there must be a prompt exchange of information in the case of licences granted for foodstuffs and emergency assistance.

2. Supervision of the activities referred to in resolution 661 (1990)

In Spain the authorities directly responsible for such supervision are, in the Ministry of Economic and Financial Affairs, the Directorate-General of Customs and the Directorate-General of External Transactions and, in the Ministry of Foreign Affairs, the Directorate-General of International Economic Relations. These offices are responsible for ensuring compliance with domestic ministerial orders and with the relevant supplementary regulations, by means of identification, verification and control.

As for the supervision of economic and financial resources, it is the responsibility of the Bank of Spain and the Directorate-General of External Transactions of the Ministry of Economic and Financial Affairs to ensure compliance with the provisions of resolution 661 (1990), by controlling the receipt and placement of funds in foreign currency by residents of Iraq and Kuwait.

Other

(a) The main problem, encountered when it comes to fully applying Security Council resolution 661 (1990), is the co-operation of private enterprises and the matter of indemnifying them for losses caused by the embargo.

(b) Cases involving contracts signed or licences granted prior to the embargo are settled by means of a political decision controlled, on a case-by-case basis, by the appropriate supervisory authorities (see above).

(c) As regards specific measures taken to protect the assets of the legitimate Government of Kuwait, attention is drawn to the above-mentioned Ministerial Order of 4 August. Although the legitimate Government of Kuwait has no financial holdings in Spain, the Order is reinforced by the direct contacts maintained through close co-operation with the Kuwait Investment Office.

For its part, the new Council Regulation, bearing in mind the relevant Security Council resolutions, permits certain persons under Kuwaiti law, controlled and recognized by its legitimate Government, to carry out their activities under certain conditions in accordance with the domestic law of the member States. At the same time, the new Regulation does not oppose commercial transactions or the rendering of non-financial services delivered outside Iraq or Kuwait with persons under Kuwaiti law and it publishes a list of the aforesaid persons.

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31 October 1990

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NOTE VERBALE DATED 30 OCTOBER 1990 FROM THE PERMANENT REPRESENTATIVE OF HUNGARY TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Representative of the Republic of Hungary to the United Nations presents his compliments to the Secretary-General of the United Nations and has the honour to transmit to him, in reply to the questionnaire circulated in his note No. SCP/7/90(3) of 8 October 1990, the list of measures taken by the Republic of Hungary for the implementation of Security Council resolution 661 (1990).

Reaffirming the commitment of the Republic of Hungary to the full implementation of resolution 661 (1990), the Permanent Representative of Hungary to the United Nations avails himself of this opportunity to renew to the Secretary-General of the United Nations the assurances of his highest consideration.

Annex I

Implementation of Security Council resolution 661 (1990)

1. Legislative framework

(a) Paragraph 20 of the Act on Foreign Trade No. III of 1974 and Decree No. 3/1977 of the Minister for Foreign Trade are the legislative bases for the measures. Paragraph 20 of Act No. III of 1974 authorizes the Minister for International Economic Relations* to give instructions to economic organizations in respect of the conclusion of foreign trade contracts, exportation and importation, the fulfilment of contracts and the granting of credits. The Minister is further authorized to modify or restrict the foreign trading licences already issued and, in case of necessity, to withdraw them.

(b) The specific legislation was determined by resolution No. 3322/1990/VIII.9 of the Hungarian Government. In compliance with resolution 661 (1990) of the United Nations Security Council, the Government ordered the full suspension of trade with Iraq or Kuwait and authorized the Minister for International Economic Relations to instruct economic organizations immediately to stop trading activity directed to the said countries and to cease all kinds of trade relations with them.

(c) Administrative orders for the execution of the sanctions were given by the Minister for International Economic Relations, the National Command of the Tarriff and Financial Guard and the National Bank of Hungary, on the basis of resolution No. 3322/1990/VIII.9 of the Hungarian Government.

2. Control of imports or activities that would promote or are calculated to promote imports or trans-shipment of goods from Iraq or Kuwait

(a) The responsible authorities for the control of sanctions are the Ministry for International Economic Relations, the National Command of the Tariff and Financial Guard and the National Bank of Hungary.

(b) - The importation of goods or any business activities were suspended by order of the Ministry for International Economic Relations published in Foreign Trade Bulletin No. 52/1990.

- Goods from Iraq or Kuwait cannot be cleared by order of the National Command of the Tariff and Financial Guard.

- Transfers for imports from Iraq and Kuwait were frozen by internal directions of the National Bank of Hungary.

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* The Minister for International Economic Relations is the legal successor of the Minister for Foreign Trade.

3. Control of exports or activities that would promote or are calculated to promote sales or supply of products and commodities to Iraq or Kuwait

(a) The responsible authorities are the Ministry for International Economic Relations, the National Command of the Tariff and Financial Guard and the National Bank of Hungary.

(b) All kinds of business activities directed to Iraq or Kuwait - including those through third countries or companies - were suspended by order of the Ministry for International Economic Relations, published in Foreign Trade Bulletin No. 52/1990. No goods for Iraq and Kuwait can be cleared or dispatched by order of the National Command of the Tariff and Financial Guard.

4. Control of financial or economic resources

(a) Law-Decree No. 36 of 1967 authorized the National Bank of Hungary to act as a foreign exchange authority of general competence. Consequently, the National Bank of Hungary may issue obligatory regulations in respect of transfers of assets abroad.

(b) The National Bank of Hungary, with internal directions:

- Prohibited payments or the transfer of assets by Hungarian nationals to corporations and private persons in Iraq or Kuwait;

- Blocked accounts, deposits and any other assets owned by Iraqi corporations and official agencies or their representatives.

5. Enforcement

The sanctions imposed by the related Act No. III of 1974 and Decree No. 3/1977 are penalty, withdrawal of the right to foreign trade activity and confiscation of the merchandise. Foreign trade that is unauthorized or not permitted is considered by articles 297 and 298 of the Penal Code, to be criminal acts.

6. Other

(a) The Republic of Hungary has suffered losses of $US 500 million from the implementation of Security Council resolution 661 (1990) in 1990, due to:

- The inability to recover the outstanding debts of Iraq or Kuwait towards Hungary;

- The failure to deliver exports under valid contract with Iraqi or Kuwaiti companies;

- The failure of capital involvement deals;

- Additional costs for imports of energy carriers and oil products arising as a consequence of the oil price increase;

- A rise in interest on Hungary's debts.

In 1991, losses will probably be five or six times higher.

(b) Shipments for effective and financially covered legal contracts have been forbidden and production stopped by the decree of the Minister for International Economic Relations.

(c) The legitimate Government of Kuwait or its agencies have no assets in Hungary.

Annex II

Foreign Trade Bulletin No. 52 of 24 August 1990

Announcements of the Ministry for International Economic Relations

Temporary Foreign Trade Actions relating to the conflict of Iraq and Kuwait

Hungary committed itself to the obligatory sanctions of the United Nations Security Council as published in the statement of the Hungarian Government on 10 August 1990.

It is emphasized that all kinds of business activities directed to Iraq and Kuwait, including those through third countries or companies, should be suspended due to the above fact. That means:

- No shipping can be realized for effective and financially covered legal contracts. In case of these contracts it is recommended to stop production till the situation gets back to normal, so that the contracts can be filled later with new conditions (e.g., delivery time, price, etc.). The contracts with Kuwait will most probably fade away. Therefore, it is advised to sell marketable products like food on other markets if possible.

- Business negotiations intended for new contracts cannot be conducted.

Companies will immediately be informed about the necessary actions in case the situation changes.

For any possible individual problem, the companies may contact General Manager János Menyhárt or Deputy General Manager Tibor Tóth at the Ministry for International Economic Relations.

Budapest, 21 August 1990

Regional Department No. 2

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NATIONS

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Security Council

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S/AC.25/1990/8
31 October 1990

ORIGINAL: ENGLISH

NOTE VERBALE DATED 29 OCTOBER 1990 FROM THE CHARGE D'AFFAIRES, A.I. OF THE PERMANENT MISSION OF OMAN TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Chargé d'Affaires, a.i. of the Permanent Mission of Oman to the United Nations presents his compliments to the Secretary-General of the United Nations and with reference to the note dated 8 October 1990, SCPC/7/90 (3), has the honour to transmit herewith the response of the Government of the Sultanate of Oman to the text of the questionnaire which the Security Council Committee has decided to address to all States in regard to resolution 661 (1990).

Annex

Answers to the questionnaire circulated by the Secretary-General of the United Nations in regard to resolution 661 (1990)

1. (a) All authorities concerned have been instructed to implement Council resolution 661 (1990).

   (b) No legislation is required; instructions have been issued and these are sufficient.

   (c) As above, not required.

2. (a) Royal Oman Police.

   (b) Since trade with Iraq before the embargo was negligible in relation to total trade, we are confident that the instructions already in effect are sufficient.

3. (a) Ministry of Commerce and Industry and Royal Oman Police.

   (b) Instructions have been issued to ensure compliance with resolution 661 (1990).

4. (a) All transactions are carried out according to the rules laid down by the Central Bank of Oman.

   (b) Taking into consideration subparagraph 4 (a) above, no specific measures are required. The bank laws cover penalties for any breach of their instructions.

5. (a) The Omani Central Bank rules contain appropriate penalties in this regard.

6. (a) None.

   (b) Not required.

   (c) All required measures have been taken to preserve the assets of the legitimate Government of Kuwait and its agencies.

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Security Council

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S/AC.25/1990/9
1 November 1990

ORIGINAL: ENGLISH

NOTE VERBALE DATED 31 OCTOBER 1990 FROM THE PERMANENT REPRESENTATIVE OF CZECHOSLOVAKIA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Representative of the Czech and Slovak Federal Republic to the United Nations presents his compliments to the Secretary-General of the United Nations and, with reference to the latter's note of 8 October 1990, concerning the questionnaire of the Security Council Committee, has the honour to advise that the Presidium of the Government of the Czech and Slovak Federal Republic adopted a decision on 8 August 1990, concerning the implementation of Security Council resolution 661 (1990). In this context, specific tasks in the field of external economic relations have been entrusted to the Federal Ministry of Foreign Trade and to the State Bank of Czechoslovakia. The following steps and measures have been adopted:

Question 1

The Federal Ministry of Foreign Trade has taken the following steps to implement the economic embargo against Iraq and Kuwait:

(a) The Minister of Foreign Trade ordered to stop all supplies for the Iraqi armed forces on 3 August 1990;

(b) The Minister of Foreign Trade extended his own order on 9 August 1990 to cover all exports and imports, including the related economic activities;

(c) On 14 August 1990 all Czechoslovak foreign trade corporations were informed in detail about the contents of the economic embargo through an explanation of Security Council resolution 661 (1990) by the Federal Ministry of Foreign Affairs;

(d) A decree was issued by the Federal Ministry of Foreign Trade on 18 September 1990 on the prohibition of trade with Iraq and Kuwait.

Question 2

(a) Any imports of Iraqi and Kuwaiti origin to Czechoslovakia are prohibited by the decree of the Federal Ministry of Foreign Trade of 18 September 1990; prior

to it such imports were banned on the basis of an order by the Minister of Foreign Trade;

(b) The above measures are supervised by the Central Customs Bureau to prevent the entry of any goods of Iraqi or Kuwaiti origin into the territory of the Czech and Slovak Federal Republic.

[Note: No contract was made for imports of commodities from Iraq and Kuwait in 1990, the only exception being a contract for the import of about 300,000 tons of oil from Iraq that would have been put into effect during the second half of 1990.]

Question 3

(a) Czechoslovak citizens are prohibited from exporting goods to and providing services for Iraq and Kuwait on the basis of the decree of the Federal Ministry of Foreign Trade of 18 September 1990; prior to it they were banned from doing so by the order of the Minister of Foreign Trade;

(b) As in the case of imports, this ban is supervised by the Central Customs Bureau to prevent any commodities destined for Iraq or Kuwait from crossing the Czechoslovak State borders.

Question 4

(a) The State Bank of Czechoslovakia conveyed a letter from the Minister for Foreign Affairs concerning Czechoslovakia's joining in the sanctions authorized by the Security Council to all banks having foreign relations, i.e. the Czechoslovak Commercial Bank, the Bank of Commerce, the General Credit Bank and the Investments Bank. In parallel, it issued an internal authorization under which all transactions on accounts linked with Iraq and Kuwait were suspended. This authorization is being complied with and no problems appear to have emerged;

(b) The Czechoslovak Commercial Bank was also informed about the instructions on this score given by the respective foreign institutions, in particular by the Bank of England and by the Federal Reserve Bank of the United States;

(c) The only account not blocked is that of the Iraqi Embassy in Czechoslovakia at the Czechoslovak Commercial Bank.

[Note: The problem for Czechoslovakia here is of a quite opposite nature; Iraq is a debtor and Czechoslovakia has an outstanding claim there in the amount of approximately 300 million United States dollars.]

Question 5

No specific sanctions have been approved for possible breaches of the embargo; in such cases corresponding action would be taken under the Czechoslovak legal regulations.

Question 6

(a) The implementation of the economic embargo entails considerable economic loss for the Czech and Slovak Federal Republic, which represents an amount of approximately 1 billion United States dollars estimated so far as direct loss (increasing price of overdue claims, suspension of projects where Czechoslovak money has already been invested, the property of Czechoslovak organizations, oil under contract that has not been delivered, etc.) as well as an additional approximate amount of $1 billion as indirect loss (especially the impact of increasing oil prices). Other losses (consequences for the rate of unemployment, effects on domestic financial sector, etc.) cannot be specified in greater detail at present;

(b) The ban on exports and services (see the above-mentioned decree of the Federal Ministry of Foreign Trade of 18 September 1990) applies also to all running projects for which contracts were concluded before the adoption of Security Council resolution 661 (1990);

(c) Through an internal banking authorization the Czechoslovak Commercial Bank secured Kuwaiti accounts and deposits against misuse and against transfers for the benefit of a third, especially the Iraqi, party.

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S/AC.25/1990/10
1 November 1990

ORIGINAL: ENGLISH

NOTE VERBALE DATED 31 OCTOBER 1990 FROM THE PERMANENT REPRESENTATIVE OF JAMAICA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Representative of Jamaica to the United Nations presents his compliments to the Secretary-General of the United Nations and, with reference to the latter's note No. SCPC/7/90(3) dated 8 October 1990, has the honour to transmit the completed questionnaire concerning national measures to implement Security Council resolution 661 (1990).

Annex

Implementation of resolution 661 (1990); a questionnaire concerning national measures

1. Legislative framework

(a) What is the legislative basis on which your country has undertaken measures to implement Security Council resolution 661 (1990)?

Prohibition by the Minister for Trade under section 8(1) of the Trade Act.*

(b) Has there been any specific legislation enacted pursuant to Security Council resolution 661 (1990)?

Yes. An order is being issued by the Ministry of Agriculture and Commerce.

(c) What types of administrative orders, decrees, etc., has your country passed pursuant to the relevant laws?

See 1 (b) above.

2. Control of imports or activities which would promote or are calculated to promote imports or trans-shipment of goods from Iraq and Kuwait

(a) Which authorities in your country are responsible for implementing the control of imports or activities as required by Security Council resolution 661 (1990)?

The Customs Department.

(b) What specific measures has your country established to prevent breaches of Security Council resolution 661 (1990) by imports of items or activities covered by it?

Penalties for breaches are covered under part IX of the Customs Act.

3. Control of exports or activities which would promote or are calculated to promote sales or supply of products and commodities to Iraq and Kuwait

(a) Which authorities in your country are responsible for implementing the control of exports activities as required by Security Council resolution 661 (1990)?

The Export Certification Authority.

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* The text of the Trade Act may be consulted in room S-3520.

(b) What specific measures has your country established to prevent breaches of Security Council resolution 661 (1990) by exports of items or activities covered by it?

See 2 (b) above.

4. Control of financial or economic resources

(a) What system of control exists in your country to prevent transfers of financial or economic resources covered by Security Council resolution 661 (1990)?

Control exists in regulations under the Exchange Control Act.

(b) What specific measures has your country taken so as to prevent unauthorized movements of funds in contravention of Security Council resolution 661 (1990)?

Instructions have been issued by the Bank of Jamaica to all commercial banks under the Exchange Control Act.

5. Enforcement

What types of enforcement (penalties, seizures, forfeitures, etc.) does your country apply so as to prevent breaches of Security Council resolution 661 (1990) by individuals and companies in your country?

Penalties are imposed under the Customs Act. These include the seizure of goods and/or the imposition of fines.

6. Other

(a) What problems has your country confronted in ensuring full national implementation of Security Council resolution 661 (1990)?

None.

(b) What legislative or other measures has your country taken so as to implement Security Council resolution 661 (1990) with regard to contracts entered into or licences granted before the date of the resolution?

Not applicable. Trade with Iraq and Kuwait is negligible.

(c) What specific measures has your country taken to protect the assets of the legitimate Government of Kuwait and its agencies in accordance with paragraph 9 (a) of Security Council resolution 661 (1990)?

Not applicable. There are no Kuwaiti assets in Jamaica.

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Security Council

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S/AC.25/1990/11
1 November 1990
ENGLISH
ORIGINAL: FRENCH

NOTE VERBALE DATED 30 OCTOBER 1990 FROM THE PERMANENT MISSION OF LUXEMBOURG TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Mission of Luxembourg to the United Nations presents its compliments to the Secretary-General of the United Nations and, in response to the questionnaire transmitted with his note of 8 October 1990, has the honour to communicate to him details concerning the measures taken by Luxembourg in implementation of Security Council resolution 661 (1990).

Annex

Measures taken by Luxembourg in implementation of resolution 661 (1990)

1. Legislative framework

(a) The measures taken in implementation of resolution 661 (1990) are based on the Act of 11 January 1990 authorizing the Grand Duke to regulate certain matters.

(b) and (c) Grand-ducal regulation of 6 August freezing the assets of the States of Kuwait and Iraq, as well as of their residents, and making exports to, and imports originating in, those two countries subject to licencing.

Grand-ducal regulation of 5 September 1990 supplementing the grand-ducal regulation of 6 August 1990 freezing the assets of the States of Kuwait and Iraq, as well as of their residents, and making exports to, and imports originating in, those two countries subject to licencing.

2. Control of imports or activities which would promote or are calculated to promote imports or transhipment of goods from Iraq and Kuwait

(a) Licencing Office; Customs Administration.

(b) Residents of Luxembourg shall not undertake any repayment, assignment or transfer of assets held by them and owned, directly or indirectly, by the State of Kuwait or residents of Kuwait, or by the State of Iraq or residents of Iraq, without prior authorization from the Minister of the Treasury.

All imports originating in Iraq or Kuwait shall be subject to licencing by the Minister for Foreign Affairs.

Any technical and scientific co-operation and any provision of services for the benefit of residents of Iraq or Kuwait shall be prohibited without prior authorization from the Minister for Foreign Affairs.

3. Control of exports or activities which would promote or are calculated to promote sales or supply of products and commodities to Iraq and Kuwait

(a) Licencing Office; Customs Administration.

(b) Residents of Luxembourg shall not undertake any repayment, assignment or transfer of assets held by them or owned, directly or indirectly, by the State of Kuwait or residents of Kuwait, or by the State of Iraq or residents of Iraq, without prior authorization from the Minister of the Treasury.

All exports to Iraq or Kuwait shall be subject to licencing by the Minister for Foreign Affairs.

Any technical and scientific co-operation and any provision of services for the benefit of residents of Iraq or Kuwait shall be prohibited without prior authorization from the Minister for Foreign Affairs.

4. Control of financial or economic resources

(a) See section 2 (b), first paragraph.

(b) Punishments (see section 5).

5. Enforcement

Imprisonment for six months to five years and/or penalty of 500,000 to 2 million Luxembourg francs.

6. Other

(a) /

(b) The grand-ducal regulations referred to above apply to contracts concluded before the date on which the resolution was adopted.

(c) In order to permit Kuwaiti enterprises under the control of the legitimate Government to continue to conduct business as usual, the Minister of the Treasury may grant the authorizations referred to in article 1 of the grand-ducal regulation of 6 August 1990. The Minister for Foreign Affairs may grant export/import licences under article 2 of the same grand-ducal regulation.

Iraq has not yet officially claimed ownership of Kuwaiti assets deposited in the Grand Duchy.

Should the Iraqi authorities make such a claim, it will not meet with a favourable response from the Grand Duchy of Luxembourg.

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S/AC.25/1990/12
1 November 1990

ORIGINAL: ENGLISH

NOTE VERBALE DATED 31 OCTOBER 1990 FROM THE PERMANENT REPRESENTATIVE OF ISRAEL TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Representative of Israel to the United Nations presents his compliments to the Secretary-General of the United Nations and acknowledges the receipt of his communication of 8 October 1990 and has the honour to refer to the note verbale dated 17 August 1990 from the Acting Permanent Representative of Israel.

In the above-mentioned note the Acting Permanent Representative of Israel stated that Israel does not export or import any commodities or products to and from Iraq and Kuwait, nor does Israel serve as a transit State for commodities or products destined for Iraq and Kuwait or originating therefrom. He further stated that no assets or deposits of Iraqi or Kuwaiti origin are held in Israel.

With regard to the questionnaire attached to the above-mentioned note of the Secretary-General, the Permanent Representative of Israel wishes to state that there exists a total lack of relations between Israel and Iraq due to Iraq's longstanding hostility towards Israel.

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S/AC.25/1990/13
1 November 1990

ORIGINAL: ENGLISH

NOTE VERBALE DATED 31 OCTOBER 1990 FROM THE PERMANENT REPRESENTATIVE OF NEW ZEALAND TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Représentative of New Zealand to the United Nations presents his compliments to the Secretary-General of the United Nations and has the honour to refer to his note of 8 October 1990 concerning the questionnaire of the Security Council Committee on the situation between Iraq and Kuwait.

The Permanent Representative has the honour to attach the response of the New Zealand Government on national measures taken in implementation of resolution 661 (1990).

Annex

New Zealand response to the questionnaire of the Security Council Committee on national implementation of sanctions against Iraq and Iraqi-occupied Kuwait

Question 1

(a) The United Nations Act, 1946, authorizes regulations to be made in order to fulfil New Zealand's obligation to implement Security Council decisions made pursuant to Article 41 of the Charter of the United Nations;

(b) A Customs Import Prohibition Order was enacted on 13 August 1990 under the New Zealand Customs Act to prohibit, on an interim basis, the importation of all goods exported by Iraq and Kuwait. The United Nations Sanctions (Iraq and Kuwait) Regulations 1990, which implemented Security Council resolution 661 (1990) in a comprehensive manner, were enacted on 17 August 1990. These regulations were replaced and extended on 15 October 1990 by the United Nations Sanctions (Iraq and Kuwait) Regulations (No. 1-2) 1990, which also implemented prohibitions contained in Security Council resolution 670 (1990). The regulations of 17 August were conveyed to the Security Council Committee and reproduced in document S/21547 of that date. The additions and other changes effected in the new regulations of 15 October are contained in the attached text;*

(c) Prior to the passage of the United Nations Sanctions (Iraq and Kuwait) Regulations 1990, other steps of an administrative kind were taken to comply with the sanctions pending the passage of the comprehensive regulations. A ban was imposed by the Minister of Customs on 9 August 1990 under the Export Prohibition Regulations on the export of all goods to Iraq and Kuwait. Steps were also taken to draw the terms of the resolution to the attention of relevant agencies in New Zealand and, through them, to the attention of traders and financial institutions.

Question 2

(a) The Customs Department is responsible for implementing the controls on imports and related activities as required by resolution 661 (1990). Other agencies, in particular the Ministry of External Relations and Trade are consulted on the administration of the regulations;

(b) All goods entering New Zealand must be declared for customs purposes. The provisions of the regulations implementing the controls on imports and related activities have been communicated to all border protection officials in the Customs Department. Sanctions against Iraq and Kuwait have been widely publicized in New Zealand.

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* The text of the regulations may be consulted in room S-3520.

Question 3

(a) The Customs Department is responsible for implementing the controls on exports and related activities as required by resolution 661 (1990). Other agencies, in particular the Ministry of External Relations and Trade, assist in the administration of the regulations;

(b) All goods being exported from New Zealand must be declared for customs purposes, including information as to the final destination of the goods. The provisions of the regulations implementing the controls on exports and related activities have been communicated to all border protection officials in the Customs Department. Sanctions against Iraq and Kuwait have been widely publicized in New Zealand and drawn to the attention of agencies involved in the promotion of industry and trade.

Question 4

(a) The comprehensive sanctions regulations contain prohibitions against transfers of money or securities, whether directly or indirectly, to or to the benefit of Iraq or Kuwait or any person in or business carried on in or operated from Iraq or Kuwait. The New Zealand Treasury and the Reserve Bank of New Zealand, in consultation with the Ministry of External Relations and Trade, are responsible for the administration of these controls. Exemptions to these prohibitions require the consent of the Minister of Finance;

(b) The prohibitions on transfers of funds to Iraq and Kuwait are known by all banks operating in New Zealand. Applications for any exemptions to these prohibitions would be made to the Reserve Bank of New Zealand in the first instance. Financial transfers to or by Kuwaiti entities may be permitted where the New Zealand authorities are able to establish that the Kuwaiti entities are free of Iraqi control or influence and that no funds would be transferred to Iraq or Kuwait. The Minister of Finance has approved only one transfer of funds to Iraq, and that was for the purpose of replenishing the account of the New Zealand Embassy in Baghdad to enable it to continue to perform its functions.

Question 5

The United Nations Amendment Act, enacted on 31 August 1990, raised substantially the maximum penalty for breaches of the regulations made under the Act, to $NZ 100,000 for companies and $NZ 10,000 for individuals. The United Nations Act also provides for a term of imprisonment to be imposed on individuals. Goods imported or being exported in breach of the regulations may be detained and subject to forfeiture under the Customs Act. Ships or aircraft carrying prohibited exports may also be detained, as may Iraqi ships. Liabilities are also imposed on the owners, operators or charterers of ships and aircraft and on persons with authority to permit any aircraft destined for Iraq or Kuwait to take off from or overfly New Zealand territory.

Question 6

(a) New Zealand has a readily available statutory framework which has made it possible to implement the sanctions as rapidly as legal procedures permit. The enactment of comprehensive regulations, which are broad in scope, has not therefore presented any problems. It is more difficult in practice to monitor and verify compliance with some prohibitions than others, e.g. financial transactions particularly through indirect routes, but New Zealand has no evidence other than that the sanctions as implemented in New Zealand law are being fully observed;

(b) The regulations apply whether or not contracts were entered into or licences granted before the date of the resolution. In accordance with the terms of Security Council resolution 661 (1990), no exemptions are provided for in the regulations for such contracts or licences. Goods that were in the process of delivery to Iraq or Kuwait on the date of the resolution and were still under the control of the exporter were diverted to other destinations;

(c) The regulations impose a prohibition on dealings with assets, money or securities held in New Zealand by the Government of Iraq or the Government of Kuwait, or agencies or bodies controlled by the Government of Iraq or the Government of Kuwait. Any exemptions to this prohibition would require the specific consent of the Minister of Finance. Such consent would be considered only if it were established that the transaction concerned did not in any way prejudice the interests of the legitimate Government of Kuwait. This would include establishing that transfers were to authorized Kuwaiti or other entities free of Iraqi control or influence and that no assets, money or securities would be transferred to Iraq or Kuwait.

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1 November 1990

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NOTE VERBALE DATED 31 OCTOBER 1990 FROM THE PERMANENT REPRESENTATIVE OF SWEDEN TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Representative of Sweden to the United Nations presents his compliments to the Secretary-General of the United Nations and has the honour to enclose herewith a memorandum by the Government of Sweden in response to the questionnaire circulated by the Secretary-General in his note No. SCPC/7/90 (3) of 8 October 1990. The Secretary-General is requested to circulate the memorandum as a document of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait.

Also enclosed are copies of the legislation and other documents referred to in the memorandum.*

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* Copies of the legislation and other documents are available for consultation in room S-3520.

Annex

Answers to the questionnaire concerning national measures on the implementation of Security Council resolution 661 (1990)

1. Legislative framework

(a) Act (1971:176) on Certain International Sanctions, which is a law passed by the Parliament.

(b) Two ordinances:

(1) Ordinance (1990:884) on the implementation with regard to Iraq and Kuwait of the Act on Certain International Sanctions (1971:176),

with amendments:

Ordinance (1990:953) regarding Amendment to the Ordinance (1990:884) on the Implementation with regard to Iraq and Kuwait of the Act on Certain International Sanctions (1971:176),

(2) Ordinance (1990:885) on Certain Sanctions against Iraq and Kuwait,

with amendments:

Ordinance (1990:954) regarding Amendment to the Ordinance on Certain Sanctions against Iraq and Kuwait (1990:885).

(c) By amendments to the following ordinances:

(1) Ordinance regarding Amendment to the Ordinance concerning Import and Export Licences within the National Board of Trade Licensing Area (KFS 1987:1), and

(2) Ordinance regarding Amendment to the Ordinance concerning Import and Export Licences within the National Agricultural Market Board Licensing Area (JNFS 1987:25).

2. Control of imports or activities which would promote or are calculated to promote imports or trans-shipment of goods from Iraq and Kuwait

(a) The National Board of Trade and the National Agricultural Market Board.

(b) By making licensing mandatory for the importation of commodities and products.

3. Control of exports or activities which would promote or are calculated to promote sales or supply of products and commodities to Iraq and Kuwait

(a) The National Board of Trade and the National Agricultural Market Board.

(b) By making licensing mandatory for the exportation of commodities and products.

4. Control of financial or economic resources

(a) and (b)

By the prohibition of payments and credits to Iraq or Kuwait. These activities are penalized.

5. Enforcement

Penalties: fines or imprisonment for up to two years, or in grave cases imprisonment for up to four years, and

Seizures and forfeiture of goods.

6. Other

(a) None.

(b) A provision in the Act on Certain International Sanctions states that the prohibitions apply on any agreement entered into before the prohibition entered into force.

(c) The Ordinance on Certain Sanctions against Iraq and Kuwait prohibits exportation of commodities and products to Iraq or Kuwait and further prohibits payments to Iraq or Kuwait. These activities are penalized.

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1 November 1990

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SECURITY COUNCIL COMMITTEE ESTABLISHED
BY RESOLUTION 661 (1990) CONCERNING
THE SITUATION BETWEEN IRAQ AND
KUWAIT

NOTE BY THE SECRETARY-GENERAL

The attached note verbale dated 1 November 1990 from the Permanent Observer of the Republic of Korea to the United Nations has been addressed to the Secretary-General.

Annex

Note verbale dated 1 November 1990 from the Permanent Observer of the Republic of Korea to the United Nations addressed to the Secretary-General

The Permanent Observer of the Republic of Korea to the United Nations presents his compliments to the Secretary-General of the United Nations and has the honour to forward a memorandum by the Government of the Republic of Korea in response to the questionnaire circulated by the Secretary-General in his note dated 8 October 1990.

It would be appreciated if the Secretary-General would circulate the memorandum as a document of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait.

Enclosure I

Memorandum

Responses of the Republic of Korea concerning implementation of resolution 661 (1990): questionnaire concerning national measures

1. Legislative framework

Q. What is the legislative basis on which your country has undertaken measures to implement Security Council resolution 661 (1990)?

A. The measures taken by the Government of the Republic of Korea to implement Security Council resolution 661 (1990) are based on several laws such as the Foreign Trade Act, the Foreign Exchange Control Act, the Overseas Construction Promotion Law and the Maritime Transportation Act. The relevant provisions of these laws are attached.*

Q. Has there been any specific legislation enacted pursuant to Security Council resolution 661 (1990)?

A. There has been no specific legislation enacted pursuant to Security Council resolution 661 (1990). Since the Government believes that the resolution can be effectively implemented by the application of the existing laws mentioned above, it has not found it necessary to legislate any new law.

Q. What types of administrative orders, decrees, etc., has your country passed pursuant to the relevant laws?

A. In the case of trade in goods, the Government has issued a special administrative guideline in order to implement Security Council resolution 661 (1990). In the case of financial transactions, construction contracts and maritime transportation, appropriate administrative guidance has been given by the Government to ensure compliance with resolution 661 (1990).

2. Control of imports or activities which would promote or are calculated to promote imports or trans-shipment of goods from Iraq and Kuwait

Q. Which authorities in your country are responsible for implementing the control of imports or activities as required by Security Council resolution 661 (1990)?

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* See enclosure II to the present document.

A. The Ministry of Trade and Industry is mostly responsible for implementing the control of imports of all commodities and products originating in Iraq and Kuwait. The Office of Customs Administration is responsible for ensuring that no imports are admitted without government approval.

Q. What specific measures has your country established to prevent breaches of Security Council resolution 661 (1990) by imports of items or activities covered by it?

A. In the Republic of Korea, it is necessary to obtain government approval in the form of an import licence in order to import goods. The Government has issued special administrative guidelines to suspend issuance of an import licence for all commodities and products originating in Iraq and Kuwait. Without an import licence, the goods to be imported are not allowed to go through Customs. The special guidelines issued in accordance with the provisions of the Foreign Trade Act are specifically designed to prohibit the import of all goods, including crude oil, produced in or shipped from Iraq and Kuwait.

3. Control of exports or activities which would promote or are calculated to promote sales or supply of products and commodities to Iraq and Kuwait

Q. Which authorities in your country are responsible for implementing the control of exports or activities as required by Security Council resolution 661 (1990)?

A. The Ministry of Trade and Industry is chiefly responsible for implementing and the Office of Customs Administration for enforcing controls on exports. The Maritime and Port Administration is in charge of preventing any trans-shipment of goods to Iraq and Kuwait.

Q. What specific measures has your country established to prevent breaches of Security Council resolution 661 (1990) by exports of items or activities covered by it?

A. The Government has established special administrative guidelines, based on the Foreign Trade Act, to suspend issuance of an export licence for the sale or supply by Korean nationals or Korean flag vessels of all commodities and products to any party in Iraq and Kuwait. As in the case of importation, any party who desires to export goods must obtain government approval by applying for an export licence. Without the export licence, the application for Customs procedure cannot be submitted. The Government may grant the export licence only for the export of items for medical and humanitarian purposes. The Government has also prohibited transportation of goods to Iraq and Kuwait, or to a third port through which the goods can be trans-shipped to Iraq and Kuwait.

4. Control of financial or economic resources

Q. What system of control exists in your country to prevent transfers of financial or economic resources covered by Security Council resolution 661 (1990)?

A. In the Republic of Korea, foreign exchange is controlled by the Foreign Exchange Control Act. According to the Act, the Government may suspend foreign exchange transactions when emergency measures are deemed necessary in case of a radical change in the international or domestic situation.

Q. What specific measures has your country taken so as to prevent unauthorized m vements of funds in contravention of Security Council resolution 661 (1990)?

A. The Government of the Republic of Korea, through administrative guidance, has called upon all Korean foreign exchange banks to pay special attention, in their financial transactions with any financial institutions of Iraq and Kuwait, to prohibiting the flow of financial resources to those countries. Korean insurance companies have also been called upon not to provide any insurance to Iraqi vessels and aircraft.

5. Enforcement

Q. What types of enforcement (penalties, seizures, forfeitures, etc.) does your country apply so as to prevent breaches of Security Council resolution 661 (1990) by individuals and companies in your country?

A. Any violators of the special administrative guidelines set out above shall be subject to penalties according to the relevant provisions. For example, article 67 of the Foreign Trade Act stipulates that any party found in contravention of a special measure shall be punished by imprisonment for not more than five years or a fine equivalent to three times or less of the price of goods to be exported or imported.

6. Other

Q. What problems has your country confronted in ensuring full national implementation of Security Council resolution 661 (1990)?

A. Since Security Council resolution 661 (1990) covers a comprehensive range of measures, the Government of the Republic of Korea is implementing it through various agencies. The Government has established the Special Inter-Ministerial Task Force to monitor implementation of the measures taken. Since its establishment on 9 August 1990, it has not found any violation of the special administrative guidelines by any person or body under the jurisdiction of the Government of the Republic of Korea. Consequently, no significant problems have yet been identified in ensuring full implementation of Security Council resolution 661 (1990).

Q. What legislative or other measures has your country taken so as to implement Security Council resolution 661 (1990) with regard to contracts entered into or licences granted before the date of the resolution?

A. As the Korean employees have returned to the Republic of Korea, the construction contracts which were entered into before the resolution have been suspended. The Government has also given appropriate administrative guidance so as to ensure the prohibition of the procurement of new construction contracts in Iraq and Kuwait.

Q. What specific measures has your country taken to protect the assets of the legitimate Government of Kuwait and its agencies in accordance with paragraph 9 (a) of Security Council resolution 661 (1990)?

A. It has been confirmed that there are no assets of the legitimate Government of Kuwait and its agencies in the Republic of Korea.

Enclosure II

The relevant provisions

Foreign Trade Act

"Article 4 (Special measures, such as restriction on trade etc.)

The Minister of Trade and Industry may take special measures concerning restrictions on or prohibition of the export and import of goods in the following cases:

"1. Where a war, an emergency or a natural or terrestrial disaster occurs in the Republic of Korea or the counterpart country of the Republic of Korea in trade (hereinafter referred to as 'trade counterpart country');"

"Article 67 (Penal provisions)

Any person who falls under any of the following subparagraphs shall be punished by imprisonment for not more than five years or a fine equivalent to three times or less of the price of goods to be exported or imported:

"1. A person who is in contravention of the special measure under article 4;"

Foreign Exchange Control Act

"Article 7 (Emergency suspension of transaction)

The Ministry of Finance may, when emergency measures are deemed necessary in case of a radical change in the international or domestic economic situation, order the suspension of foreign exchange transactions, with the approval of the President following a deliberation of the State Council."

Maritime Transportation Act

"Article 30 (Orders to improve business)

"1. If it is necessary for strengthening international competitiveness, maintaining order in the navigational routes or promoting the smooth transportation of cargo, the Administrator of the Korea Maritime and Port Administration may issue an order to the maritime cargo transportation businessmen on the following matters:

"(a) Changes of the business plan;

"(b) Measures necessary for protection of crew members;

"(c) Matters necessary for safe navigation of vessels;

"2. When the maritime cargo transportation businessmen violates an order issued under paragraph 1 or does not perform as ordered, the Administrator of the Korea Maritime and Port Administration may limit governmental assistance."

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SECURITY COUNCIL COMMITTEE ESTABLISHED BY
RESOLUTION 661 (1990) CONCERNING THE
SITUATION BETWEEN IRAQ AND KUWAIT

NOTE VERBALE DATED 30 OCTOBER 1990 FROM THE PERMANENT REPRESENTATIVE OF VIET NAM TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Representative of the Socialist Republic of Viet Nam to the United Nations presents his compliments to the Secretary-General and has the honour to refer to the latter's note of 8 October 1990 together with the questionnaire of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait.

In this regard and upon the instructions from his Government, the Permanent Representative wishes to inform the Secretary-General that Viet Nam has been following the situation in the Gulf region with deep concern and it hopes that the situation will soon be resolved through peaceful means within an Arab framework. Under Viet Nam's constitution and law, the Vietnamese Government is responsible for implementing those international acts to which it is a signatory and those international obligations by which it has declared it will abide. As a member of the United Nations, Viet Nam will comply with Security Council resolution 661 (1990). Viet Nam has been consulting with the Security Council Committee with the aim of securing from the United Nations and other international organizations food relief for the Vietnamese nationals in Iraq and means for their repatriation.

The implementation of resolution 661 (1990) has given rise to serious economic problems for Viet Nam. Therefore, in accordance with Article 50 of the Charter of the United Nations, Viet Nam deems it necessary to request the Security Council for measures of assistance after assessing its economic losses as a result of its commitment to the implementation of resolution 661 (1990).

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2 November 1990

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SECURITY COUNCIL COMMITTEE ESTABLISHED
BY RESOLUTION 661 (1990) CONCERNING
THE SITUATION BETWEEN IRAQ AND KUWAIT

NOTE VERBALE DATED 29 OCTOBER 1990 FROM THE PERMANENT MISSION OF AUSTRIA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Mission of Austria to the United Nations presents its compliments to the Secretary-General and, with reference to the latter's note of 8 October 1990, has the honour to transmit to him the following reply of the Government of Austria to the questionnaire of the Security Council Committee established by resolution 661 (1990) on measures adopted by States in implementation of this resolution.

1. Legislative framework

(a) Federal Foreign Trade Act 1984 (BGBl.* 184);

Federal law concerning the export, import and transit of military equipment, 1977 (BGBl. 540 as amended in BGBl. 358/1982);

Federal law concerning sea navigation;

Federal law on foreign currency;

(b) -

(c) Decree of the Federal Minister of Economic Affairs under the authority vested in him by the Federal Foreign Trade Act relating to obligatory prior permission for the import and export of commodities and products, 14 August 1990, effective 17 August 1990 (BGBl. 537);

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* Federal Law Gazette.

Decree of the Federal Minister of Economic Affairs with the consent of the Federal Minister of Finance and the Federal Minister of Agriculture revoking the authorization for customs offices to grant permission for exports and imports of commodities and goods originating from or destined to Iraq or Kuwait, 14 August 1990, effective 17 August 1990 (BGBl. 538);

Decree of the Federal Government under the authority granted to it under federal law concerning the export, import and transit of military equipment, 1977, prohibiting any export of military equipment and civil arms and ammunition to Iraq and Kuwait (BGBl. 545a/1990).

2. Control of imports

(a) Federal Ministry of Economic Affairs

Federal Ministry of Finance

Federal Ministry of Public Economy and Transport

(b) By the above-mentioned decree (BGBl. 537) all legal transactions or activities relating to the import of commodities and products originating from Iraq or Kuwait are declared subject to prior permission by the competent authority. Except under circumstances defined in Security Council resolution 661 (1990), permission for such transactions or activities will not be granted. In order to prevent Iraqi or Kuwaiti commodities or products from being transshipped through Austrian territory or by using vessels under the Austrian flag, the Federal Ministry of Public Economy and Transport banned the granting of transit permits for Iraqi and Kuwaiti trucks and prohibited vessels under the Austrian flag from calling on certain ports or from carrying Iraqi or Kuwaiti commodities or products.

3. Control of exports

(a) Federal Ministry of Economic Affairs

Federal Ministry of Finance

Federal Ministry of Public Economy and Transport

Federal Ministry of the Interior

(b) By the above-mentioned decree (BGBl. 537) all legal transactions or activities relating to the export of commodities and products destined for Iraq or Kuwait are declared subject to prior permission by the competent authority. Except under circumstances defined in Security Council resolution 661 (1990), permission for such transactions or activities will not be granted. The decree generally prohibiting any export of military equipment and civil arms and ammunition to Iraq and Kuwait also allows for additional penal sanctions in case of any attempt to circumvent the provisions of this decree.

4. Control of financial or economic resources

(a) The Austrian National Bank supervises the activities of the Austrian banks and their conformity with the regulations mentioned under 4 (b) below by routine controls;

(b) On 13 August 1990 the Austrian National Bank issued an official announcement, published on 14 August 1990 and effective immediately, by which all disposal of assets owned by non-residents with residence (domicile) in Iraq or Kuwait or by legal persons with non-resident status which are directly or indirectly owned by non-residents with residence (domicile) in one of the two aforementioned countries are subjected to prior permission by the National Bank. Moreover, cash or non-cash payments by residents and non-residents to beneficiaries fulfilling the criteria mentioned above are subject to the same restriction.

5. Enforcement

Breaches of the laws and decrees mentioned above entail penal sanctions by administrative or judicial organs. Alleged breaches are prosecuted ex officio by the Public Prosecutor or the competent administrative authority.

6. Other

(a) -

(b) -

(c) In order to protect assets of the legitimate Government of Kuwait and its agencies, the Austrian National Bank seeks information on those Kuwaiti agencies that continue to be controlled by the legitimate Government of Kuwait and that are authorized to carry out transactions concerning assets of Kuwait in Austria.

Copies of the relevant legislation are attached to this note.*

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* Copies of the legislation (in German) may be consulted in room S-3520.

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SECURITY COUNCIL COMMITTEE ESTABLISHED
BY RESOLUTION 661 (1990)
CONCERNING THE SITUATION
BETWEEN IRAQ AND KUWAIT

NOTE VERBALE DATED 31 OCTOBER 1990 FROM THE PERMANENT MISSION OF GERMANY TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Mission of the Federal Republic of Germany to the United Nations presents its compliments to the Secretary-General of the United Nations and has the honour to transmit to him, in reply to the questionnaire circulated in his note No. SCPC/7/90 (3) of 8 October 1990, the list of measures taken by the Federal Republic of Germany in application of Security Council resolution 661 (1990).

Annex

Measures taken by Germany in application of Security Council resolution 661 (1990)

1. Legislative framework

(a) Foreign Trade and Payments Act

(b) Ninth and Tenth Ordinance to Amend the Foreign Trade and Payments Regulations

(c) Executive notes (administrative orders)

2. Control of imports or activities which would promote or are calculated to promote imports or trans-shipments of goods coming from Iraq or Kuwait

(a) Office of Foreign Trade and Industry, Customs Service

(b) Specific attention by Customs Service

3. Control of exports or activities which would promote or are calculated to promote sales or supply of products and commodities to Iraq or Kuwait

(a) Office for Foreign Trade and Industry, Customs Service

(b) Specific attention by Customs Service

4. Control of financial or economic resources

(a) Section 52 of the Ninth Ordinance to Amend the Foreign Trade and Payments Regulation:

"Section 52

"Restrictions pursuant to section 7, subsection 1, Nos. 2 and 3, of the Foreign Trade and Payments Act

"Resident banks require permission to grant authorization to draw on accounts, securities accounts, or other assets - whether in custody or administration - of Iraq or Kuwait, official agencies of Iraq or Kuwait, or their plenipotentiary. Authorizations by Iraq or Kuwait, official agencies in Iraq or Kuwait, or their plenipotentiary to draw on assets not held with resident banks also require permission."

Section 69 e of the Tenth Ordinance to amend the Foreign Trade and Payments Regulation:

"Section 69 e

"Restrictions pursuant to section 7, subsection 1, of the Foreign Trade and Payments Act

"(1) The issuance of payments or transfer of assets to non-residents domiciled in Iraq or Kuwait by residents in connection with commercial transactions prohibited by section 69 is prohibited.

"(2) Other payments or the transfer of other assets by residents:

"(a) To Iraq or Kuwait,

"(b) To official agencies in Iraq or Kuwait, or to their plenipotentiaries,

"(c) To non-residents in Iraq or Kuwait,

"(d) To non-residents, if the payments or transfers are intended for Iraq or Kuwait, for official agencies in Iraq or Kuwait, or for their plenipotentiaries or for enterprises domiciled in Iraq or Kuwait, even if the payments or transfers are not made in Iraq or Kuwait proper,

require permission."

(b) See above-mentioned regulations.

5. Enforcement

Section 34 of the Foreign Trade and Payments Act provides that contraventions may be punished by imprisonment up to 10 years or by fines.

Further, contraventions may be punished as administrative offences by fines not to exceed DM 1 million.

Such contraventions are deemed to be criminal offences if they can jeopardize:

- The external security of the Federal Republic of Germany;
- The peaceful coexistence of nations; or
- Seriously endanger the foreign relations of the Federal Republic of Germany.

Seizure and forfeiture of profits gained by punishable acts can be ordered by the courts according to legislation in force.

6. Other

(a) None; if necessary, co-ordination in the European Communities (EC) and the Organisation for Economic Co-operation and Development (OECD);

(b) Contracts entered into before the date of the resolution remain valid. Contracts, however, cannot be fulfilled and licences cannot be honoured since the date of the United Nations embargo resolution;

(c) See assets freeze, section 52;

Licensing possible only for the legitimate Government of Kuwait or its representatives.

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RESOLUTION 661 (1990) CONCERNING THE
SITUATION BETWEEN IRAQ AND KUWAIT

NOTE VERBALE DATED 31 OCTOBER 1990 FROM THE PERMANENT REPRESENTATIVE OF JAPAN TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Representative of Japan to the United Nations presents his compliments to the Secretary-General and has the honour to attach a memorandum by the Government of Japan in response to the questionnaire circulated by the Secretary-General in his note of 8 October 1990. The Secretary-General is requested to circulate the memorandum as a document of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait.

Annex

Memorandum

The implementation of resolution 661 (1990): questionnaire concerning national measures

Question 1. Legislative framework

(a) The Foreign Exchange and Foreign Trade Control Law.

(b) No new specific legislation (requiring the approval of the National Diet) has been enacted pursuant to this matter.

(c) The following administrative arrangements have been made:

(i) The Export Trade Control Order was partially amended so that all exports of goods to Iraq and Kuwait shall be subject to approval by the Ministry of International Trade and Industry; such exports are thus, in principle, prohibited.

(ii) In accordance with a decree of the Ministry of International Trade and Industry, all imports of goods originating in, or shipped from Iraq and Kuwait shall be subject to approval by the Ministry of International Trade and Industry; approval shall not be granted for any import of goods originating in or shipped from Iraq or Kuwait, except for the previously shipped goods.

(iii) The Foreign Exchange Control Order was partially amended so that all service transactions with Iraq and Kuwait are subject to approval by the Ministry of International Trade and Industry or the Ministry of Finance; such transactions are thus, in principle, prohibited.

(iv) The Foreign Exchange Control Order was partially amended so that all intermediary transactions of goods originating in, destined for, or shipped from Iraq and Kuwait are subject to approval; such transactions are thus, in principle, prohibited.

(v) The notifications of the Ministry of Finance have been partially amended so that all payments involving Iraq and Kuwait are subject to approval; such payments are thus, in principle, prohibited.

(vi) The Ministerial Ordinance of the Ministry of Finance has been partially amended so that all investments and loans involving Iraq and Kuwait shall be halted.

(vii) The Ministry of International Trade and Industry issued a stern warning to Japanese entities to refrain from engaging in export transactions with Iraq and Kuwait, including those previously contracted, licensed, or approved by the Japanese authorities concerned.

(viii) Japanese banks and securities companies have been requested by the Ministry of Finance to ascertain that all transactions of the Kuwaiti Government and other entities are duly authorized by responsible personnel.

(ix) Japanese banks, securities companies and other commercial entities have been requested by the Ministry of Finance to refrain from entering into new loan arrangements, underwriting bonds, or dealing in corporate bonds on behalf of Iraq and Kuwait.

(x) Administrative guidance was given to marine and air shipping companies to prohibit Japanese nationals and vessels under the Japanese flag from engaging in cargo transactions originating in or destined for Iraq or Kuwait.

Question 2. Control of import or activities which would promote or are calculated to promote imports or trans-shipment of goods from Iraq and Kuwait

(a) The Ministry of International Trade and Industry is responsible for implementing the control of imports, and the Ministry of Transportation is responsible for marine and air shipping under the Japanese flag for cargo transactions originating in or destined for Iraq or Kuwait, as required by Security Council resolution 661 (1990).

(b) All imports of goods originating in or shipped from Iraq and Kuwait are subject to approval by the Minister of International Trade and Industry; in principle, such approval shall not be granted. In the case that any company imports goods without the approval of the Minister of International Trade and Industry, penal servitude and/or fines will be imposed upon the importer(s) as sanctions based upon the Foreign Exchange and Trade Control Law. In addition, the Minister can order the prohibition of imports for a maximum of one year as an administrative sanction based upon the same Law.

Question 3. Control of exports or activities which would promote or are calculated to promote sales or supply of products and commodities to Iraq and Kuwait

(a) The Ministry of International Trade and Industry is responsible for implementing the control of exports, and the Ministry of Transportation is responsible for marine and air shipping under the Japanese flag for cargo transactions originating in or destined for Iraq or Kuwait, as required by Security Council resolution 661 (1990).

(b) (i) All exports of goods originating in or shipped from Iraq and Kuwait shall be subject to approval by the Minister of International Trade and Industry; in principle, such approval shall not be granted. To this end, the Export Trade Control Order, in accordance with article 48, paragraph 3, of the Foreign Exchange and Foreign Trade Control Law, was partially amended. Exports of medical supplies and food for humanitarian purposes are to be dealt with, in accordance with Security Council resolutions 660 (1990) and 661 (1990).

(ii) All intermediary transactions of goods originating in, destined for, or shipped from Iraq and Kuwait are subject to approval by the Ministry of International Trade and Industry. To this end, the Foreign Exchange Control Order was partially amended.

(iii) On 7 August, administrative guidance was given to marine and air shipping companies to prohibit Japanese nationals and vessels under the Japanese flag from engaging in cargo transactions originating in or destined for Iraq or Kuwait.

(iv) In the case that any company exports goods without the approval of the Minister of International Trade and Industry, penal servitude and/or fines will be imposed upon the importer(s) as sanctions based upon the Foreign Exchange and Trade Control Law. In addition, the Minister can order the prohibition of exports for a maximum of one year as an administrative sanction based upon the same Law.

Question 4. Control of financial or economic resources

(a) The Foreign Exchange and Foreign Trade Control Law provides a basic legal framework to prevent transfers of financial or economic resources covered by Security Council resolution 661 (1990). Based upon the above-mentioned Law, the Government of Japan has taken the following specific measures:

(i) Payments

Payments involving Iraq and Kuwait are subject to approval, based on article 16, paragraph 2, of the Law; these payments are thus, in principle, prohibited. With this, any withdrawals from banks, payments against securities, import payments and foreign remittances related to these funds by Iraq and Kuwait are blocked.

(ii) New loans

As for the application for new loans involving Iraq or Kuwait, advice or an order to suspend a transaction can be made in accordance with article 23, paragraph 2, of the Law; thus new loans, in principle, shall not be granted.

(iii) Direct investment

As for the application for direct investment in Iraq or Kuwait, advice or an order to suspend a transaction can be made in accordance with article 23, paragraph 2, of the Law; thus direct investment, in principle, shall not be granted.

(iv) Service and intermediary transactions

All service and intermediary transactions with Iraq and Kuwait are subject to approval, in accordance with article 23, paragraph 3 (2), of the Law; such transactions are thus in principle prohibited.

Question 5. Enforcement

If any individual or company violates regulations envisaged in the Foreign Exchange and Trade Control Law to prevent breaches of Security Council resolution 661 (1990), penal servitude and/or fines can be imposed. Items being exported or imported in contravention of the above Law can be forfeited in accordance with the relevant criminal laws.

Question 6. Other

(a) At present, Japanese nationals who are detained or deprived of the freedom to leave Iraq are not permitted by the Iraqi Government to receive remittances to be used for the purchase of minimum necessities as well as supplies of basic materials such as medical supplies, food, clothing, etc.

(b) The Government of Japan has taken the following measures so as to implement Security Council resolution 661 (1990) with regard to contracts entered into or licences granted before the date of the resolution:

(i) As for imports, approval shall, in principle, not be granted except for previously shipped goods.

(ii) As for exports, approval for the export of all items, including those previously approved, shall not be granted. Administrative guidance was given to halt, in principle, all exports to Iraq and Kuwait.

(iii) As for direct service transactions, new contracts are subject to approval.

(iv) As for transactions previously contracted or approved, payments involving Iraq and Kuwait are subject to approval; such transactions are thus, in principle prohibited.

(c) On 3 August, Japanese banks and securities companies were requested by the Ministry of Finance to ascertain that all transactions of the Kuwaiti Government and other entities are duly authorized by responsible personnel. In addition to the above, on 10 August, all withdrawals of assets of the legitimate Government of Kuwait and its agencies are subject to approval in accordance with article 16, paragraph 2 of the Foreign Exchange and Foreign Trade Control Law; and foreign remittances without approval are prohibited.

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SECURITY COUNCIL COMMITTEE ESTABLISHED
BY RESOLUTION 661 (1990) CONCERNING
THE SITUATION BETWEEN IRAQ AND KUWAIT

NOTE VERBALE DATED 29 OCTOBER 1990 FROM THE PERMANENT MISSION OF MAURITANIA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Mission of the Islamic Republic of Mauritania to the United Nations presents its compliments to the Secretary-General of the United Nations and, in reply to his note of 8 October 1990, has the honour to transmit attached hereto the reply of the Mauritanian Government to the questionnaire on implementation of Security Council resolution 661 (1990).

The text of this reply is contained in letter 307 of 28 October 1990 from the Minister for Foreign Affairs and Co-operation of Mauritania, which reads as follows:

"The Government of the Islamic Republic of Mauritania presents its compliments to the Secretary-General and has the honour to transmit to him its reply to the telex of 8 October 1990 concerning the implementation of Security Council resolution 661.

1. Legislative framework

Trade between the Islamic Republic of Mauritania and other countries are traditionally governed by the following legislation:

Act 73 118 and, in particular, article 33 thereof; articles 2 to 9 of Act 74 022 of 24 January 1974 (copy of these texts attached);* and the instruments adopted for their implementation.

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* Text not submitted by the delegation.

A reading of these texts shows that all import and export trade operations are subject to prior authorization by the Ministry of Foreign Trade and the Central Bank of Mauritania.

More recently, with a view to simplifying foreign trade procedures, the Central Bank of Mauritania was given virtually exclusive control of import and export operations under Decree No. 89 062/PO/MCT/MEF (copy attached).*

On the basis of the foregoing, the Minister for Finance and the Governor of the Central Bank of Mauritania, on 30 September 1990, sent a circular to the services concerned, a copy of which is attached, prohibiting all trade operations between our country and Iraq and Kuwait.

So far as capital movements and, more particularly, the servicing of our country's debt to Iraq and Kuwait are concerned, we have suspended payment thereof and an escrow account has been opened for this purpose in the Central Bank of Mauritania (see attached service note).

2. Control of imports or activities which would promote imports or trans-shipment of goods from Iraq and Kuwait

(a) The authorities responsible for implementing the control of imports or activities as required by Security Council resolution 661 (1990) are, in Mauritania, the Central Bank and the Ministry of Finance (Directorate-General of Customs).

(b) The Minister for Finance and the Governor of the Central Bank, in whom authority to regulate trade matters is vested by law, have issued circulars addressed to all services concerned prohibiting the endorsement of imports from or exports to Iraq and Kuwait. Any person committing a breach of these regulations is therefore subject to the penalties prescribed by law (cf. Act 74 022 of 24 January 1974).

3. Control of exports or activities which would promote or are calculated to promote sales or supply of products and commodities to Iraq and Kuwait

(a) and (b): As the authorities responsible for imports and the authorities for exports are the same, the replies given under 2 (a) and (b) are applicable under this heading. Similarly, the above-mentioned regulations for implementing the resolution apply to both imports and exports.

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* Text not submitted by the delegation.

4. Control of financial or economic resources

(a) The currency of the Islamic Republic of Mauritania being non-convertible, strict exchange control is in force. The Central Bank is responsible exclusively for managing external assets and, in that connection, the attached circular from the Governor of the Bank precludes any possibility of resources being transferred to Iraq or Kuwait.

(b) The fact that the Central Bank has custody over all of the country's foreign means of payment precludes any possibility of unauthorized transfer.

5. Enforcement

The exchange regulations apply to all business circles (individuals and legal entities) and prescribe penalties ranging from fines and seizures to imprisonment (see Act 74 022, articles 16 to 25).

6. Other

(a) As a result of action taken by the Government of Mauritania, Security Council resolution 661 (1990) has been and is being implemented.

(b) In view of its small volume of trade with the two countries concerned, Mauritania has taken no special action as regards existing contracts or licences.

(c) Kuwaiti assets in Mauritania consist solely of assets in escrow for debts outstanding.

Moctar OULD HAYE
Acting Minister for Foreign Affairs
and Co-operation"

The Permanent Mission of the Islamic Republic of Mauritania to the United Nations also attaches to this note various administrative circulars and documents issued by the competent Mauritanian authorities for strict implementation of resolution 661 (1990) (see annexes I to V).

Annex I

Letter dated 27 September 1990 from the Acting Minister for Foreign Affairs and Co-operation addressed to the Minister for Finance

I have the honour to inform you that, in letter No. 1077 of 18 September addressed to the Secretary-General of the United Nations, I confirmed the commitment of the Islamic Republic of Mauritania to comply with the provisions of Security Council resolution 661 (1990).

A copy of the said resolution is attached.

(Signed) Moctar OULD HAYE
Acting Minister for Foreign Affairs
and Co-operation

Annex II

Letter dated 27 September 1990 from the Acting Minister for Foreign Affairs and Co-operation addressed to the Governor of the Central Bank of Mauritania

I have the honour to inform you that, in letter No. 1077 of 18 September addressed to the Secretary-General of the United Nations, I confirmed the commitment of the Islamic Republic of Mauritania to comply with the provisions of Security Council resolution 661 (1990).

A copy of the said resolution is attached.

(Signed) Moctar OULD HAYE
Acting Minister for Foreign Affairs
and Co-operation

Annex III

Letter dated 30 September 1990 from the Minister for Finance addressed to the Director-General of Customs

Pursuant to Security Council resolution 661, we inform you that all import and export operations between the Islamic Republic of Mauritania and Iraq and Kuwait shall be prohibited.

Accordingly, the Directorate of Customs shall be responsible for ensuring strict implementation of this circular by its central services and all frontier posts.

Failure to implement this circular shall constitute a breach of Act 74.022 of 24 January 1974 and of subsequent instruments, and any person failing to comply shall be subject to the penalties prescribed in articles 16 to 25 of the above-mentioned Act.

(Signed) Mouhamedou OULD MICHEL
Minister for Finance

Annex IV

Service note No. 059-GR-90 dated 15 October 1990

Pursuant to Security Council resolution 661 (1990), "Escrow Account" No. 300.11.12 shall be opened in the Central Bank and amounts for servicing the debt of the Islamic Republic of Mauritania and of its organs and institutions vis-à-vis the States of Iraq and Kuwait and their institutions shall be deposited in this account.

(Signed) Ahmed OULD ZEIN
Governor
Central Bank of Mauritania

Annex V

Circular dated 30 September 1990

Pursuant to Security Council resolution 661, all import and export operations between the Islamic Republic of Mauritania and Iraq and Kuwait shall be prohibited.

The competent services of the Bank shall therefore refrain from endorsing any document relating to commercial or financial operations with those countries.

Failure to comply with this circular shall constitute a breach of Act 74.022 of 24 January 1974 and of subsequent instruments, and any person failing to comply shall be subject to the penalties prescribed in articles 16 to 25 of the above-mentioned Act.

The Exchange Control Directorate, the Export Markets and Sectors Directorate, the Internal Control Directorate and the Regional Directorate at Nouadhibou shall be responsible, respectively, for implementing this circular.

(Signed) Ahmed OULD ZEIN
Governor
Central Bank of Mauritania

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SECURITY COUNCIL COMMITTEE ESTABLISHED
BY RESOLUTION 661 (1990) CONCERNING
THE SITUATION BETWEEN IRAQ AND KUWAIT

NOTE VERBALE DATED 1 NOVEMBER 1990 FROM THE PERMANENT MISSION OF ITALY TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Mission of Italy to the United Nations presents its compliments to the Secretary-General and, in reply to the questionnaire attached to his note, has the honour to transmit herewith the requested information concerning the measures taken at the national level to implement Security Council resolution 661 (1990).

The Permanent Mission of Italy would be grateful for forwarding the text of the present letter and its annexes* to the Committee established in accordance with paragraph 6 of Security Council resolution 661 (1990).

* Copies of the Legislation may be consulted in room S-3520.

Annex

Implementation of resolution 661 (1990)

1. Legislative framework

(a) Special laws were issued on 4 and 6 August 1990;

(b) Italy has adopted two different special laws concerning Kuwait and Iraq (enclosed). The law concerning Kuwait (Law No. 216 of 4 August 1990) freezes Kuwaiti assets in Italy in order to protect the interests of Kuwait. The law concerning Iraq (Law No. 220 of 6 August 1990) was issued in order to punish the Iraqi invasion. Both laws:

(i) Forbid any kind of commercial or financial transaction to or from Iraq and Kuwait;

(ii) Provide for the possibility of derogating from the limits laid down by the law;

Special Law No. 247 of 23 August 1990 prohibits triangular operations;

(c) A limited number of derogations have been issued by ministerial decree. The derogations concern companies under the financial control of, or with a minority participation in, the legitimate Government of Kuwait.

2. Control of imports

(a) Ministry of Finance (customs authorities);

(b) Italian customs authorities have been adequately alerted. A monitoring group has been set up in order to collect all information.

3. Control of exports

(a) Ministry of Finance (customs authorities);

(b) Italian customs authorities have been adequately alerted. A monitoring group has been set up in order to collect all information.

4. Control of financial or economic resources

(a) A specific group, comprising the Ministry of Foreign Affairs, the Ministry of the Treasury and the Ministry of Foreign Trade, has been set up to monitor financial operations. Banks and other institutions cannot transfer financial or economic resources in accordance with Italian legislation on the embargo;

(b) All information is examined by the specific group.

5. Enforcement

(a) The two laws adopted provide for:

(i) The invalidity of any act that violates the embargo;

(ii) Civil and administrative sanctions.

6. Other

(a) Italy's legislation does not provide for an institutional system of control to be activated on these occasions. Specific measures have been adopted and ad hoc groups have been set up in order to make the embargo as strict as possible;

(b) General and comprehensive embargo;

(c) Derogations for all those entities under the control of the legitimate Government of Kuwait.

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SITUATION BETWEEN IRAQ AND KUWAIT

NOTE VERBALE DATED 2 NOVEMBER 1990 FROM THE PERMANENT REPRESENTATIVE OF CYPRUS TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Representative of the Republic of Cyprus to the United Nations presents his compliments to the Secretary-General and, with reference to the latter's note dated 8 October 1990, has the honour to enclose herewith the reply of the Government of Cyprus to the questionnaire concerning national measures on the implementation of resolution 661 (1990) of the Security Council.

Annex

Measures adopted by the Government of the Republic of Cyprus in implementation of Security Council resolution 661 (1990)

1. Legislative framework*

(a) The measures taken by the Government of the Republic to implement Security Council resolution 661 (1990) are mainly based on Law 50 of 1965, which ratifies and repeats Article 25 of the Charter of the United Nations, which provides that Member States shall agree to accept and implement the resolutions of the Security Council. Furthermore, the legislation relevant to the imposition of restrictions or prohibitions regarding imports is used as a basis for implementing the resolution in question. In this respect it should be noted that an order by the Minister of Commerce and Industry has been issued under this legislation which expressly prohibits imports as envisaged in the above resolution. Customs legislation is also used as regards the implementation of the prohibition of imports and exports required by the Security Council resolution. Legislation concerning foreign exchange is also resorted to in respect of relevant cases covered by the terms of the resolution in question.

(b) Specific legislation has not yet been enacted in relation to Security Council resolution 661 (1990). However, the need for such legislation is now under consideration.

(c) Reference has already been made to the relevant order issued under the legislation regulating imports (Law 49 of 1962).

2. Control of imports or activities which would promote or are calculated to promote imports or trans-shipment of goods from Iraq or Kuwait

(a) The authorities responsible in Cyprus for implementing the control of imports or activities as required by Security Council resolution 661 (1990) are the following: the Ministry of Commerce and Industry, the Ministry of Finance and the Department of Customs and Excise, which comes under that Ministry, the Central Bank of Cyprus and the Cyprus Ports Authority; all these authorities are acting in accordance with the advice of the Office of the Attorney-General of the Republic.

(b) Reference has already been made to the order issued under the legislation regulating imports. The customs authorities have also intensified their control of imports and other activities that come within their competence with the object of applying strictly the provisions of the resolution in question.

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* The relevant legislation is in Greek and can be furnished if required.

3. Control of exports or activities which would promote or are calculated to promote sales or supplies of products and commodities to Iraq and Kuwait

(a) The control of exports and relevant activities comes under the jurisdiction of the Ministry of Commerce and Industry, the Department of Customs and the Central Bank.

(b) Circulars have been issued by the Central Bank of Cyprus requesting banks to abstain from handling documents or affecting any payments that would facilitate transactions that fall under this heading. Likewise, a circular issued to offshore companies registered in Cyprus instructs them to abstain from carrying out transactions of this nature.

4. Control of financial or economic resources

(a) Domestic and offshore banks are not allowed to effect transfers of financial or economic resources covered by Security Council resolution 661 (1990).

(b) The circulars issued by the Central Bank to domestic and offshore banks as well as to other offshore companies instruct them not to move funds in contravention of Security Council resolution 661 (1990). Furthermore, a freeze has been imposed on bank accounts kept on the books of domestic banks in the names of residents of Iraq or Kuwait. No movement is allowed in such accounts without the prior permission of the Central Bank of Cyprus.

5. Enforcement

Importing or exporting goods contrary to the legislation applied in respect of breaches of Security Council resolution 661 (1990) described above amounts to a criminal offence punishable with imprisonment and the payment of a fine. Furthermore, imported goods are subject to seizure and forfeiture. Forfeiture is a matter for the courts. Seizure may be carried out by the Department of Customs. In this respect it is important to emphasize the fact that petrol originating in Iraq and shipped from Turkey was seized recently by the customs authorities of Cyprus in accordance with the relevant customs legislation.

The entities in Cyprus that are mainly involved in transit trade are the offshore companies. By a Central Bank circular they have been warned that the Central Bank will revoke immediately the Exchange Control permit of any offshore company that, directly or indirectly, violates any of the provisions of the resolution.

6. Other

(a) Though no problems have been encountered in ensuring full national implementation of Security Council resolution 661 (1990), there is always the

possibility, which is a universal risk not confined to Cyprus, that the destination of outgoing goods may be changed en route without the knowledge of the authorities.

The Central Bank of Cyprus has issued circulars to domestic and offshore banks drawing their attention to the risks involved in facilitating the re-export of any commodities or products brought to Cyprus in transit. They were specifically requested not to offer their services or provide, in any way, assistance in transactions which they have good reason to suspect are associated with Iraqi or Kuwaiti sanctions-busting activities.

(b) Even for contracts entered into or transactions carried out prior to the adoption of resolution 661 (1990), the Central Bank of Cyprus does not allow payments or transfers arising therefrom.

(c) All accounts kept at domestic banks in the names of residents of Iraq or Kuwait have been blocked and any entries therein have to be approved by the Central Bank of Cyprus in advance. Hence, the alienation of balances belonging to the legitimate Government of Kuwait and its agencies is impossible.